

Bove, James

From: James Bove <Bove.James@epamail.epa.gov>
Sent: Tuesday, September 22, 2015 2:42 PM
To: Bove, James
Subject: Fw: Product manufacturer file request

NOTICE: This communication may contain privileged or other confidential information. If you are not the intended recipient, or believe you have received this communication in error, please delete the copy you received, and do not print, copy, re-transmit, disseminate or otherwise use the information. Thank you.

----- Forwarded by James Bove/DC/USEPA/US on 09/22/2015 02:41 PM -----

From: Nick Nichols/DC/USEPA/US
To: James Bove/DC/USEPA/US@EPA,
Date: 04/23/2012 04:10 PM
Subject: Product manufacturer file request

Non-Responsive

----- Forwarded by Nick Nichols/DC/USEPA/US on 04/23/2012 04:06 PM -----

From: "Tirrell, Rebecca" <Rebecca_Tirrell@sra.com>
To: Nick Nichols/DC/USEPA/US@EPA
Date: 04/23/2012 01:40 PM
Subject: NCP Product Schedule Information Line - NCP Product Schedule Manager Follow Up Needed

Nick

Luke received the following request via the Information Line (operational yay!):

John Sheffield (713-724-9226) of Alabaster Corp., manufacturer of Sea Brat #4 (D-10) and Petro-Clean (SW-23), called the Information Line requesting copies of his two product files. Basically, he is interested in obtaining the correspondence history. From his description we think he means the internal correspondence or notes (i.e., within EPA, FOSCs, and outside the company and EPA). Mr. Sheffield would also like a list of who viewed and/or received a copy of his CBI during and following DWH.

As to the reason for requesting this information, he stated "basic housekeeping," for his records and in preparation for the proposed rule. He voiced some concern over the sharing of his CBI.

He knows he could make a FOIA request, but wanted to bypass the long turnaround by going through the Product Schedule program. Is FOIA his only option?

Luke returned his call to let him know the message would be passed on to the NCP Product Schedule Manager for follow up.

Thanks!

Rebecca

Rebecca L. Tirrell | Principal & Senior Scientist
Environmental and Energy Services | SRA International, Inc.
3434 Washington Boulevard | Arlington, VA 22201
703.284.6643 (ph) | 703.801.6783 (m) | 703.284.1372 (fax)
Rebecca_Tirrell@sra.com

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{In Archive} Fw: CONFIDENTIAL

Alan Margolis to: Kevin Miller

06/01/2010 09:55 AM

Archive:

This message is being viewed in an archive.

Alan D. Margolis
Attorney-Advisor
OGC
(202) 564-3672
(202) 564-5431 (FAX)

----- Forwarded by Alan Margolis/DC/USEPA/US on 06/01/2010 09:55 AM -----

From: James Bove/DC/USEPA/US
To: Alabastercorp@aol.com
Cc: Leigh DeHaven/DC/USEPA/US@EPA, Alan Margolis/DC/USEPA/US@EPA
Date: 06/01/2010 09:53 AM
Subject: Re: CONFIDENTIAL

Charles,

Thank you for your message. We appreciate your public release of the nonphenol polyethylene glycol ether that is approximately 1.91% by weight and recognize that you have not released any further claims to date. **However, the letter you received from me requires that you substantiate all of your confidential business information (CBI) claims regarding Sea Brat #4.** Please refer to the letter for the time frame in which you must respond. The EPA Office of General Counsel will take your substantiation information and make a determination as to whether the material claimed as CBI is, in fact, CBI. Material found to be CBI will continued to be treated as such. Failure to provide substantiation information will be regarded by the Office of General Counsel as a waiver of all confidentiality claims pertaining to the unsubstantiated material. Material determined not to be CBI or for which CBI claims are deemed to be waived may be released to the public with no further notice to you.

Sincerely,

Jim Bove

Alabastercorp

Dear James,

05/29/2010 12:39:35 PM

From: Alabastercorp@aol.com
To: James Bove/DC/USEPA/US@EPA
Date: 05/29/2010 12:39 PM
Subject: CONFIDENTIAL

Dear James,

This email is in response to the letter that we received from you dated May 19, 2010. We faxed the attached letter to Leigh DeHaven on May 24, 2010, stating that the **only information that may be shared upon proof of request, is the nonphenol polyethylene glycol ether that is approximately 1.91% by weight and/or 650 ppm prior to dilution.** Any other information that has been previously submitted to the epa is asked to remain confidential indefinitely. We have had many people seeking samples of our products for duplication on an ongoing basis. This confidential agreement with your organization is very important to us, as we know your business ethics are in place.

If you have any further questions, please do not hesitate to contact me.

Sincerely,
Charles A. Sheffield
CEO, Alabaster Corporation
800-609-2728

[attachment "letter to leigh dehaven - seabrat confidentiality.pdf" deleted by James Bove/DC/USEPA/US]

non-responsive

----- Forwarded by James Bove/DC/USEPA/US on 05/24/2010 04:01 PM -----

From: Leigh DeHaven/DC/USEPA/US
To: John Sheffield <alabastercorp@gmail.com>
Cc: James Bove/DC/USEPA/US@EPA
Date: 05/24/2010 03:20 PM
Subject: Re: revision to recent email

Thank you, Mr. Sheffield.

Leigh E. DeHaven
U.S. Environmental Protection Agency
Office of Emergency Management (OEM)
Regulation and Policy Development Division
1200 Pennsylvania Ave., NW (5104A)
Room 6450 EE
Washington, DC 20460
tel: (202) 564-1974
fax: (202) 564-2625

John Sheffield

Dear Ms. DeHaven, In regard to our conversatio...

05/24/2010 03:17:58 PM

From: John Sheffield <alabastercorp@gmail.com>
To: Leigh DeHaven/DC/USEPA/US@EPA

Cc: Nick Nichols/DC/USEPA/US@EPA
Date: 05/24/2010 03:17 PM
Subject: revision to recent email

Dear Ms. DeHaven,

In regard to our conversation of May 21, 2010, you may disclose only the information regarding the nonlphenol polyethylene glycol ether that is approximately 1.91% by weight and/or 650 ppm prior to dilution. (1000 ppm is 1/10 of 1%.) Any other information is confidential. Please see attached letter that was sent to B.P. on May 19, 2010 regarding toxicity requirements. If you have any questions, please do not hesitate to contact us.

Respectfully,

Charles A. Sheffield
CEO - Alabaster Corporation
281-487-5482
800-609-2728

[attachment "S.B. toxicity - Harrison-BP.pdf" deleted by Leigh DeHaven/DC/USEPA/US]



{In Archive} Fw: Sea Brat Response- Administrator request

James Bove to: Alan Margolis, Kevin Miller

05/24/2010 11:53 AM

History: This message has been replied to.
Archive: This message is being viewed in an archive.

Kevin, Alan,

non-responsive. John Sheffield, of SeaBrat, sent an e-mail to EPA Subpart J folks and said to "pass this (% information for two components) on to those who may need to review this." Additionally, SeaBrat never responded to object to EPA's e-mail stating that we may release the % information on one of the two components within 24 hours if they failed to respond. That e-mail was sent at 5:38pm on May 21, 2010. It was not sent return receipt requested, but SeaBrat sent the e-mail below the next day.

Can we agree that John Sheffield's e-mail, attached below, provides for a public release of the % information for the two components? **non-responsive**

Thanks-
Jim

----- Forwarded by James Bove/DC/USEPA/US on 05/24/2010 11:46 AM -----

From: Leigh DeHaven/DC/USEPA/US
To: bove.james@epa.gov
Date: 05/24/2010 11:40 AM
Subject: Fw: Sea Brat Response

Leigh E. DeHaven
U.S. Environmental Protection Agency
Office of Emergency Management (OEM)
Regulation and Policy Development Division
1200 Pennsylvania Ave., NW (5104A)
Room 6450 EE
Washington, DC 20460
tel: (202) 564-1974
fax: (202) 564-2625

----- Forwarded by Leigh DeHaven/DC/USEPA/US on 05/24/2010 11:39 AM -----

From: John Sheffield <alabastercorp@gmail.com>
To: Leigh DeHaven/DC/USEPA/US@EPA, Nick Nichols/DC/USEPA/US@EPA, Nick Nichols/DC/USEPA/US@EPA
Date: 05/22/2010 07:45 PM
Subject: Fwd: Sea Brat Response

Ms. Leigh DeHaven
Mr. Nick Nichols

Re: The BP response on May 21 about dispersants.
There is a misunderstanding or misinformation in BP's interpretation.

We had provided this information to BP about the (NP) and toxicity.
Please pass this on to those who may need to review this.

John Sheffield

----- Forwarded message -----
From: John Sheffield <alabastercorp@gmail.com>
Date: Sat, May 22, 2010 at 6:39 PM
Subject: Sea Brat Response
To: "Lavandera, Ed" <Ed.Lavandera@turner.com>

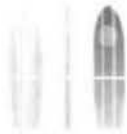
Ed,

Here is the responce we sent to BP about the NP. They know this to be truth.
I am sending a copy of this to a couple EPA people I know.

Thanks



S.B._toxicity_-_Harrison-BP.pdf



Archive:

{In Archive} Letter to Alabaster

Craig Matthiessen **To:** bove.james, Alan Margolis, Kevin Miller

05/24/2010 09:21 AM

Cc: Leigh DeHaven, Nick Nichols

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Here is a scanned copy of the signed letter I sent via certified mail/return receipt to Alabaster about their daily production rate proprietary information claim.
Craig Matthiessen



Alabaster Not Entitled Signed 5-22-10.pdf



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

May 22, 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Alabaster Corporation
6921 Olson Lane
Pasadena, TX 77505

Attn: Mr. Charles A. Sheffield

Re: Ineligibility of the daily production rate information submitted to EPA by BP for
confidential treatment

Dear Mr. Sheffield:

We are writing to inform you that EPA plans to release the Sea Brat #4 daily production rate information submitted to EPA by BP and claimed by you to be 'confidential.' In phone conversations, you stated that the production rate was specific to the client and that Alabaster could vary production amounts depending on client needs. Here is the text from the BP letter:

"BP also has an inventory of 100,000 gallons of Sea Brat #4 available for immediate use. The manufacturer is able to produce an additional 50,000 gallons/day, which would be sufficient to meet all anticipated surface application needs, but may not be sufficient to meet both surface and subsurface application needs combined."

Under EPA regulations at 40 CFR 2.204(d)(2), Alabaster's claim of confidentiality for the Sea Brat #4 daily production rate information submitted to EPA by BP is clearly not eligible for confidential treatment. EPA plans to make the information in the BP letter (see text above) publicly available.

This decision is based upon the fact that, informing the public of the daily production rate of Sea Brat #4 specific to BP, will not cause substantial harmful effects to Alabaster Corporation's competitive position. EPA finds no harmful effects associated with this disclosure and no causal relationship between disclosure and substantial harmful effects to Alabaster's competitive position. Additionally, Alabaster's contention that this statement of production capacity may be inaccurate does not constitute competitive harm to Alabaster.

Pursuant to EPA's regulations at 40 CFR 2.204(d)(2) and 2.205(f), this notification constitutes the final EPA determination concerning your business confidentiality claim. *Please be aware that EPA will make public the daily production rate of Sea Brat #4 on the fifteenth working day after your receipt of this letter unless the EPA Office of General Counsel has first been notified that your company has commenced an action in Federal court to: (1) obtain judicial review of this determination; and (2) obtain preliminary injunctive relief against disclosure. If such an action is commenced, EPA may still make the information available to the public once the court has denied a motion for a preliminary injunction or otherwise upheld this determination. In addition, EPA may provide this information to the public, after reasonable notice to you, whenever it appears to the Agency that you are not taking appropriate measures to obtain a speedy resolution of the action. If the daily production rate is found to be temporarily entitled to confidential treatment, however, EPA will not make the information available until after that period ends.*

Should you have any questions concerning this matter, please call Leigh DeHaven of my staff at 202-564-1974. Thank you for your assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Craig Matthiessen". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

R. Craig Matthiessen, Director
Regulations and Policy Development Division
Office of Emergency Management

{In Archive} Fw: Confirmation of phone discussion 5_21_10 - Alabaster Corp.
Leigh DeHaven

to:

lynch.mary-kay, miller.kevin, margolis.alan

05/21/2010 05:43 PM

Hide Details

From: Leigh DeHaven/DC/USEPA/US

To: lynch.mary-kay@epa.gov, miller.kevin@epa.gov, margolis.alan@epa.gov,

Archive: This message is being viewed in an archive.

-----Forwarded by Leigh DeHaven/DC/USEPA/US on 05/21/2010 05:28PM -----

To: alabastercorp@aol.com

From: Leigh DeHaven/DC/USEPA/US

Date: 05/21/2010 05:38PM

cc: margoles.alan@epa.gov, matthiessen.craig@epa.gov, bove.james@epa.gov,
Martin.Detloff@bp.com

Subject: Confirmation of phone discussion 5_21_10 - Alabaster Corp.

Dear Mr Sheffield,

This is to confirm our discussion on May 21, 2010, where you agreed to release Alabaster Corporation's confidential business information claims stated by you, or on your behalf by BP, concerning the information that SEA BRAT #4 contains nonylphenol polyethylene glycol ether at approximately 1.91% by weight. This release moots the BP confidential business information claim that was made on your behalf.

Please note that general statements regarding as a constituent of SeaBrat may have been released in accordance with your verbal waiver. EPA may release the information that nonylphenol polyethylene glycol ether is approximately 1.91% by weight after 24 hours from your receipt of this confirmation with no further notice to you absent a renewed objection to the release of this information.

Sincerely,

Leigh E. DeHaven

U.S. Environmental Protection Agency

Office of Emergency Management (OEM)

Regulation and Policy Development Division

1200 Pennsylvania Ave., NW (5104A)

Room 6450 EE

Washington, DC 20460

tel: (202) 564-1974

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